

**COMPLEMENTARY REPORT ON ORGANZATIONS FOR THE DISABLED REGARDING THE ADOPTION OF THE LIST OF ISSUES IN THE FRAMEWORK OF THE HONDURAS REVIEW**

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| **In compliance with the**  **CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES**  **2016** |

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**PRESENTED BY:**

**FENOPDIH:** Federación Nacional de Organismos de Personas con Discapacidad de Honduras / National Federation of Organisms of Disabled Persons in Honduras

**FENAPAPEDISH:** Federación Nacional de Padres de Personas con Discapacidad de Honduras / National Federation of Parents of Disabled Persons in Honduras

**INTRODUCTION**

This report was prepared as a document to strengthen and update information included in the Alternative Report on Honduras prepared in June 2015 by civil society organizations (organizations by and for disabled persons), corroborating non-compliance by the Honduran government with the rights of disabled persons.

The contents of this report reflect some of the problems which deter the full enjoyment of their rights by disabled persons.

It is worth noting that the analysis made of compliance with these rights has been in counter position with what the government of Honduras presented in its initial report to the United Nations Organization Committee on the Rights of Persons with Disabilities. For every right, civil society organizations include a series of suggested questions that should be made to the government Honduras.

1. ***GENERAL OBLIGATIONS (ARTICLE 4. CRPD, SECTION B):***

The government still has not adopted measures to harmonize the national legal framework (2014 Initial Report on the Government of Honduras, article 13, number 103 and 106)[[1]](#footnote-1). One example of this is found in Article 109 of the Constitution of the Republic (the term of “handicapped”); the Law of the Public Ministry, title 2 article 16, number 15 (“handicapped” and “disabled”); Article 23 of the Penal Code, (“mental retardation” and “mental illness”); Article 556 of the Civil Code, items 1, 2 and 3 (“mutes”, “insane”, “imbeciles” and “demented”), Article 277 of the Family Code (“incapacitated”).

In the area of human rights there has been a reversal in relation to institutionality because the General Directorate for the Development of the Disabled (DIGEDEPDI in Spanish), after being a decentralized entity with autonomy is currently fused –justified by the optimization of resources – with the Disabled and Older Adult Unit, resulting from the issuance of Execute Decree 266-2013 dated January 22, 2014 (Law for Optimizing Public Administration).

***Suggested Questions:***

1.- What actions has the government of Honduras carried out to harmonize the Constitution of the Republic and its laws, with the C.P.P.D. and its optional protocol?

2.- What actions does the government carry out to incorporate the disabled and the organizations representing them in processes for the creation, reform and repeal national legislation?

3.- What are the plans of the government of Honduras to rectify this regression in regards to human rights which implies the orbital change in the Directorate for the Development of Disabled Persons (DIGEDEPDI in Spanish) (conf. Executive Decree No. 266-2013)? What actions has the Government carried out to improve the functionality and operations of the Directorate for the Development of Disabled Persons (DIGEDEPDI in Spanish)?

4.- What actions does the current Directorate of the Disabled carry out to coordinate and provide follow-up to compliance with the law (Decree Nº 160-2005), public policies, plans, programs and projects to benefit disabled persons?

***2.EQUALITY AND NON-DISCRIMINATION (ARTICLE 5 CRPD):***

Government entities do not comply with public policies and other laws related to the disabled, especially on the violations of rights in specific areas of communications for the deaf, as well as universal accessibility for persons with physical-motor disabilities. For example, there are only seven professional interpreters of Honduran sign language (LESHO in Spanish) to respond to the needs of this population. On the other hand, the majority of government institutions do not have efficient universal accessibility.

***Suggested Questions:***

1.-Please provide information on which entity is processing the reforms to Decree Nº 160-2005- Law for Equity and Comprehensive Development for Disabled Persons – submitted to the national congress on October 29, 2015.

2.-Please provide information on the concrete measures that the government has taken to combat discrimination against the disabled, including measures taken for access to justice with the respective restitution of their rights, as the case may be.

3.-Please provide information regarding sanctions imposed on natural and legal persons due to noncompliance with Article 321 of the penal code[[2]](#footnote-2).

***3. EQUAL RECOGNITION AS PERSONS BEFORE THE LAW (ARTICLE 12 CRPD):***

Despite the fact that the Constitution recognizes that all persons have equal rights before the law[[3]](#footnote-3) other laws do not include equal recognition of the disabled. One example is Article 556 of the Civil Code, the Law for the National Commissioner for Human Rights (CONADEH in Spanish ) and the Law for the Public Prosecutor’s Office.

Despite the fact that paragraph 96 of the country report indicates that all persons are equal before the law, in practice there is evidence to the contrary since there are no specific dispositions for disabled persons to access services provided by the banking system under equal conditions (Law for the National Banking and Insurance Commission). An example of this is that disabled persons are denied access to life and medical insurance coverage.

***Suggested Questions:***

1.- What measures is the government taking to adapt Book I of the persons, Title VII, Articles 510 to 524 of the Civil Code in the subject of the legal capacity for disabled persons? How has civil society participated in these processes?

2.- What measures has the government of Honduras adopted to train and/or raise awareness in the administrators of justice throughout the country for them to adjust and facilitate access to justice in order for the legal capacity of disabled persons to be respected?

3.- Please explain if the government has the mechanisms that permit the establishment of support systems that guarantee the exercise of legal capacity for the disabled.

4.- Please provide information on the application of administrative and penal sanctions in cases of the violation of the exercise of the legal capacity of disabled persons, especially with regards to financial and banking matters.

***4. PROTECTION AGAINST EXPLOITATION, VIOLENCE AND ABUSE (ARTICLE 16 CDCP):***

The government Honduras has subscribed to different international treaties and conventions (CRPD, CEDAW, ILO) and has also dictated various standards and policies (Chapter 4 of the Childhood and Adolescence Code) for the protection of disabled children, articles 107 to 113, the national policy for the prevention of violence towards Honduran children and youths, the public policy for the exercise of the rights of the disabled and their social inclusion in Honduras, axis number 7, etc.). Even so, no advances have been made in this area because the needed measures have not been adopted to promote prevention, physical, cognitive, emotional, and psychological recovery as well as inclusion in society for disabled persons who are victims of exploitation, violence and abuse.

For example, there is evidence of exploitation suffered by some disabled persons as they are used and even commercially exploited by their relatives or other persons through begging.

***Suggested Questions:***

1.- What concrete actions is the government of Honduras carrying out to prevent, eradicate and penalize violence, exploitation and the abuse of the disabled, including disabled women, children and adolescents?

2.- Please provide information on the creation of permanent programs with specific budgetary allocations oriented towards eradicating the exploitation of disabled persons such as the specific case of begging obligated by their families or other persons.

3.- Please provide information on how many cases have been penalized for forced sterilization or rapes against the disabled for which there are records in the government of Honduras.

***5. FREEDOM OF EXPRESSION AND OPINION AND ACCESS TO INFORMATION (ARTICLE 21 CDCP):***

The government does not apply accessible formats with information for disabled persons, even though paragraph 167 of the Country Reports states that the National Telecommunications Commission (CONATEL in Spanish) is responsible for taking all the necessary measures for making information accessible for the disabled.

Paragraph 170 of the Country Report states that there is very little progress made in matters regarding communication for the deaf, nor is progress made in this regard for visually disabled persons, for example, in relation to the description of information that is only transmitted through images (information on the prices of productions, exchange rate information, fuel prices, etc.).

***Suggested Questions:***

1.- Please indicate which measures were adopted by the government through the National Telecommunications Commission (CONATEL in Spanish) to insure compliance with Article 46 of Decree 160-2005 (Law for the Equality and Integrated Development for the Disabled").

2.- Please identify the budget line item assigned by the government of Honduras for training interpreters in Honduran sign language (LESHO in Spanish) and which entity will implement and regulate this training process.

3.- Please indicate the standards and actions developed by the government of Honduras in the area of access to information for the blind, with audio adaptations, in Braille, on medicinal packaging, currency, health information, legal information, banking services and others containing information for communication.

4.- Please explain the noncompliance of Article 46 of Decree 160-2005 (“Law for Equality and Integrated Development for the Disabled”) which refers to access to the communications media.

***7. THE RIGHT TO LIVE INDEPENDENTLY AND TO BE INCLUDED IN THE COMMUNITY (ARTICULE 19 CRPD):***

There are no actions in Honduras that promote independent living for the disabled. Further, existing actions for their inclusion in the community are wrongly implemented through the program for Inclusive Development, previously known as Community Based Rehabilitation (RBC in Spanish) as mentioned in paragraph 157 of the Country Report. This program focuses on the formation of community assistants and not on generating programs nor does it assign specific resources that permit the disabled to live independently.

***Suggested Questions***

1.-Please indicate the concrete measures implemented by the government for the purpose of guaranteeing laws, plans, programs, public policies and campaigns that guarantee exercise of the right to independent living (including the corresponding allocation in the general budget of the country).

***8. WORK AND EMPLOYMENT (ARTICLE 27 CRPD):***

The economically active disabled population is a total of 445,824 persons, 95% of which are unemployed.[[4]](#footnote-4) The government does not comply with Article 35 in the contracting table included in Decree 160-2005 (Law for Equality and Integrated Development for the Disabled), nor does it penalize noncompliance with inclusion in the labor force by private companies. Likewise, the government does not create conditions for the selection, employment continuity, professional formation and safe working conditions.

In addition, the majority of disabled persons who are integrated in the public and private work force are discriminated as a result of the lack of reasonable adjustments, accessibility, permanent contracts, a setting which includes sign language interpretation and equal salaries. We should emphasize the lack of inclusive vocational and professional training programs which results in higher unemployment rates in the disabled population.

Finally, we can particularly emphasize that there is no program for the inclusion in the labor force for intellectually and / or psychosocially disabled persons.

***Suggested Questions:***

1.- Please explain monitoring and following in the area of insertion in the work force that guarantee no exploitation and dignified employment for disabled youths graduating from the Special Training Center (CECAES in Spanish) as stated in paragraph 136 of the Country Report).

2.- Please provide information on the measures adopted by the government to regulate Decree 160-2005 (“Law for Equality and Integrated Development for Disabled Persons”) in labor matters.

3.-Please provide information on the measures adopted to put into practice the tax benefits for companies in relation to salaries paid to disabled persons (conf. Article 36 of Decree 160-2005).

4.- Please explain the source of information on which the government bases its affirmation that disabled persons do not personally apply for employment (conf. paragraph 294 of the Country Report).

5.-Please provide information on the measures adopted so that programs to promote employment (“with a job you live better”, “job plus”, “community work”, among others) include the right to continuous work and the permanent inclusion of disabled persons and their families.

6.- Please explain the measures adopted by the government to comply with the table for minimum contracting in the framework of the labor quotas established in Article 35 of Decree 160-2005 and how monitoring is implemented to ensure compliance.

7.-Please provide information on how the government applies Article72 of Decree 160-2005, related to sanctions applied to public and private companies that do not comply with this law.

8.-Please indicate which actions have been carried out by the government to implement micro business programs and other forms of self-employment for the disabled.

9.-Please describe what permanent programs have been implemented by the government in relation to technical, vocational and professional training as well as inclusion in the labor force for the disabled, in particular for persons who are intellectually and psychosocially incapacitated.

***9. HEALTH (ARTICLE 25CDCP):***

The national health system does not have protocols for care, nor duly trained health personnel to care for the disabled. As such, the conditions do not exist for universal accessibility at the public health units.

The government does not comply with Article 28 of Decree 160-2005 referring to the Honduran Social Security Institute (IHSS in Spanish) to include the disabled in the special regime for affiliation. Further, the public health system list of essential medications is insufficient to cover the needs of this group.

Access to different rehabilitation services and technical help for the disabled is limited since the majority of the centers providing this type of care are private.

In addition, Honduran legislation does not guarantee the right of the disabled to freely personally consent to receive any medical treatment or process. For example, violation of this right is more evident in psychosocially or intellectually disabled persons, who more often are victims of forced sterilizations and abortions due to the lack of information on sexual and reproductive training.

The existence of organizations providing rehabilitation services without the rights perspective (for example, Teletón) becomes a threat to budgetary allocations for quality health care for the disabled.

***Suggested Questions:***

1.-Please indicate how much progress has been made in the implementation of protocols for adequate health care for the disabled according to the type of deficiency and the amount of the budgetary allocation for its implementation.

2.-Please describe the actions implemented by the government to guarantee access to health insurance for the disabled.

3.- Please specify how much has been invested by the government in programs for sexual and reproductive health oriented towards this population.

***10. EDUCATION (ARTICLE 24 CRPD):***

There is no reliable data on the disabled included in the regular educational system. Even though the Ministry of Education has a System for the Registration of the Administration of Educational Centers (SACE in Spanish), the disabled are not included. However, even though the exact data is unknown regarding disabled school age boys and girls, the report submitted in 2015 to the national congress by the National Human Rights Commissioner (CONADEH in Spanish)[[5]](#footnote-5) states that there are 63,157 children registered in the regular educational system who have different disabilities and learning problems.

There are some relevant standards that are unclear or unenforceable in support of educating disabled persons in the regular educational system (for example, the Fundamental Education Law, the Law for Equality and Development, the Strategy for Inclusive Education, the Standardization of Curricular Adaptations, the Policy for Special Education, the National Public Policy for Action in Human Rights, among others). In any event, these are not applied due to a lack of financing.

It is necessary to guarantee that the development of educational policies have an inclusive focus which is usually not the case. For example, the standards adopt the terminology of special educational needs when work should be done to first evaluate the person and subsequently their condition.

Based on the information gathered during national consultations with the disabled and their families, it was ascertained that the necessary elements for an inclusive education, such as curriculum plans, trained teaching personnel, infrastructure, evaluations, among others, are not adapted to individual education needs. This is because the program for educational inclusion implemented by the Ministry of Education is not validated or socialized with the disabled or their organizations.

The report submitted by CONADEH in 2015 mentions that the budget allocated to the General Sub-directorate of Education for Persons with Different Disabilities or Exceptional Talents was L80,000 (approximately $3,478.00) which is not a sufficient amount to promote inclusion for disabled children in the regular educational system.

***Suggested Questions:***

1.- Please indicate the actions being carried out by the government to guarantee that teacher training promotes inclusive education at all levels.

2.- Please explain the measures the government will adopt in order to assign sufficient resources to the General Sub-directorate of Education for Persons with Different Disabilities or Exceptional Talents.

3.- Please provide information on the types of inclusive programs the government is implementing related to vocational technical education oriented towards the disabled.

4.- Please describe the actions carried out by the government to certify instructors in Honduran sign language (LESHO in Spanish) and in Braille.

5.- Please provide information on how the government guarantees and monitors accessibility at the education centers.

6.- Please provide information on the existence of concrete cases of penalization of public and private education centers, as well as natural persons who have not complied with the standard for inclusive education.

***6. DATA GATHERING AND STATISTICS (ARTICLE 31 CRPD):***

Paragraphs 288-203 and 295-296 of the country report ratify that although the National Statistics Institute (INE in Spanish) is part of the government it does not have a reliable and updated system to record data that permit the development and application of effective programs and projects oriented towards the disabled[[6]](#footnote-6).

***Suggested Questions:***

1.- Please explain the actions taken by the government regarding the design of a complete, updated and reliable statistics system in the area of the disabled.

2.- Please indicate which coordination mechanisms are utilized by the government with public and private institutions to feed, update and debug the National Statistics Institute data base with an emphasis on the area of the disabled.

1. # Newspaper report on Tele Sur: “Honduras: Defenders of the disabled demand reforms”: [*https://www.youtube.com/watch?v=3Kd7CYXejnQ*](https://www.youtube.com/watch?v=3Kd7CYXejnQ)

   [↑](#footnote-ref-1)
2. “ARTICLE 321. Whoever discriminates another person for reasons of gender, race, age, class, religion, partisanship or politics, any disability or anything else against human dignity will be sanctioned with reclusion of three (3) to five (5) years and a fine of from thirty thousand (L30,000) to fifty thousand Lempiras (L50,000) If the accused party is foreign he/she will be expelled from the country once the jail sentence is completed.” [↑](#footnote-ref-2)
3. # Articles 59 and 60 of the Constitution of the Republic

   [↑](#footnote-ref-3)
4. Source: Report submitted by CONADEH in 2014 in which Dr. Herrera, the Ombudsman, states that 80% of this population is unemployed. [↑](#footnote-ref-4)
5. Source: CONADEH 2015 Report,.3.Rights of vulnerable groups or sectors. 3.4 Persons with Disabilities. Page 119. Link [www.conadeh.hn](http://www.conadeh.hn)). [↑](#footnote-ref-5)
6. In 2014 a report was released by the National Autonomous University of Honduras in counter position with official statistics which are over ten years old. See the video on: <https://www.youtube.com/watch?v=QIr0IeKq7fM> [↑](#footnote-ref-6)